

Message Text

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SUBJECT: CLAIM OF DEL E. WEBB CORPORATION AGAINST HONDURAS

1. JOHN P. BYRNE, OF THE DEL E. WEBB CORPORATION (PHOENIX), VISITED TEGUCIGALPA JULY 19-22 IN A RENEWED EFFORT BY THIS COMPANY TO PURSUE ITS CLAIM FOR ADDITIONAL PAYMENT FOR CONSTRUCTION OF THE TELA-LA CEIBA HIGHWAY. THE COMPANY BUILT THE 60-MILE HIGHWAY BETWEEN 1968 AND 1972 UNDER CONTRACT TO THE GOH AND WAS PAID \$10,630,989. THE \$4,766,571 CLAIM, SUBMITTED MARCH 30, 1973, WAS FIRST REJECTED IN NOVEMBER 1974 BY A CABINET -LEVEL COMMITTEE HEADED BY THEN FINANCE MINISTER ACOSTA BONILLA. THE CLAIM IS BASED ON FORCE MAJEURE (HONDURAS-EL SALVADOR WAR), DESIGN CHANGES, INCREASED EARTH-MOVING REQUIREMENTS, EXCESSIVE SLIDES, AND OTHER FACTORS. THE GOH AGAIN STATED IN NOVEMBER 1976 THAT IT FINDS NO FOUNDATION FOR THE CALIM DESPITE A GESTURE BY WEBB TO REDUCE IT BY ONE MILLION DOLLARS.

2. THE EMBASSY PREVIOUSLY HAD MADE APPOINTMENTS REQUESTED BY MR. BYRNE (AS WELL AS HOTEL RESERVATIONS) WITH WEBB'S LAST LOCAL ATTORNEY, GUILLERMO LOPEZ RODEZNO AND WITH THE MINISTER OF TRANSPORT AND PUBLIC WORKS, MARIO FLORES THERESIN. IN A PRELIMINARY MEETING WITH THE EMBASSY ECONOFF MR. BYRNE EXPRESSED A DESIRE TO ENGAGE NEW LOCAL COUNSEL AND TO SEEK GOH RECONSIDERATION OF THE CALIM. THE ECONOFF RECOMMENDED LAW FIRMS HEADED BY DONATO FORTIN AND

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JORGE FIDEL DURON. THE FORMER'S SPOUSE IS PRESIDENT OF THE NATIONALIST PARTY AND THE LATTER, A GRADUATE OF LOUISIANA STATE, HAS TWICE BEEN MINISTER OF FOREIGN AFFAIRS.

3. RESPONDING TO A QUERY BY MR. BYRNE REGARDING PROSPECTS FOR A SETTLEMENT, THE ECONOFF POONTEED OUT THE FOLLOWING FACTORS IN THE COMPANY'S FAVOR. PAST GOH CONSIDERATION OF THE CLAIM TOOK

PLACE FURING A DIFFICULT PERIOD OF NATURAL DISASTER, ECONOMIC STAGNATION AND POLITICAL CHANGE ACCOMPANIED BY STRONG NATIONALIST SENTIMENT. ECONOMIC AND FINANCIAL RECOVERY OVER THE PAST YEAR, COMBINED WITH INCREASED POLITICAL STABILITY AND RECEDING NATIONALISTIC FERVOR HAVE GREATLY IMPROVED THE CLIMATE FOR A SETTLEMENT. GOH EXCHANGE RESERVES AND REVENUES HAVE REACHED NEW HIGHS. OUR BILATERAL RELATIONS, ENHANCED BY STEPPED UP AID, ARE AT A HIGH POINT. MR. BYRNE WAS CAUTIONED, NEVERTHELESS, TO BE PATIENT FOR RESULTS, BECAUSE THE RESPONSIBLE OFFICIALS ARE LIKELY TO FIND IT DIFFICULT OR UNPOPULAR TO REVERSE A POSITION THE GOH HAS MAINTAINED FOR FIVE YEARS. REGARDING STRATEGY, THE EMBOFF URGED MR. BYRNE TO EMPHASIZE THE FIVE MAIN BASES FOR THE CLAIM IN AN EFFORT TO RE-OPEN NEGOTIATIONS ON OUT-OF-COURT SETTLEMENT. MR. BYRNE CONCURRED WITH THIS TACK AND REQUESTED THE ECONOFF TO ACCOMPANY HIM ON ALL CALLS. SENATOR DENNIS DE CONCINI MADE A SIMILAR REQUEST IN A LETTER TO THE ECONOFF.

4. IN OUR CALL ON WEBB'S FORMER ATTORNEY, GUILLERMO LOPEZ RODEZNO, THE LATTER EXPRESSED DOUBT THAT LITIGATION WOULD BE FRUITFUL. REGARDING TACTICS, HE SUGGESTED AN APPROACH TO THE "ECONOMIC CABINET" VIA ARTURO CORLETO, PLANNING DIRECTOR.

5. MR. BYRNE AND THE ECONOFF NEXT VISITED MR. FORTIN'S OFFICE. BECAUSE HE WAS OUT OF TOWN THEY CALLED ON MR. DURON. FOLLOWING DISCUSSION OF THE CLAIM, BYRNE AND DURON REACHED PRELIMINARY AGREEMENT FOR LEGAL REPRESENTATION ON A CONTINGENT FEE BASIS. THIS LIMITED OFFICIAL USE

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WAS CONFIRMED IN WRITING FOLLOWING AN EXCHANGE OF CABLES BETWEEN BYRNE AND DEL WEBB OFFICES.

6. AT JULY 21 APPOINTMENT WITH MINISTER OF COMMUNICATIONS, TRANSPORT AND PUBLIC WORKS, DURON REQUESTED AND GOT AGREEMENT OF THE MINISTER FOR RECONSIDERATION OF WEBB CLAIM. THE MINISTER THEN SUGGESTED BYRNE AND DURON DISCUSS WITH CESAR ABADIE STREBER, A MINISTRY TECHNICAL ADVISOR, PROCEDURES FOR RECONSIDERATION. IT WAS AGREED WITH ABADIE THAT BYRNE AND DURON WOULD PREPARE A MEMORANDUM FOR DISCUSSION AT A MEETING SET FOR AUGUST 2.

7. COMMENT: MR. BYRNE EXPRESSED SATISFACTION WITH THE PROGRESS ACHIEVED IN SECURING LEGAL COUNSEL AND IN REOPENING CONSIDERATION WITH THE GOH. THE EMBASSY BELIEVES DEL WEBB'S BEST PROSPECTS LIE IN ATTEMPTING TO REVIEW WITH GOH SPECIFIC SUBSTANTIVE AND LEGAL BASES FOR ITS CLAIM IN FURTHER TALKS. GOH OFFICIALS IN PAST HAVE CAREFULLY AVOIDED SUCH JOINT DISCUSSION. THE EMBASSY WILL CONTINUE TO PROVIDE APPROPRIATE ASSISTANCE AND FOLLOW PROGRESS CLOSELY IN AN EFFORT TO HELP RESOLVE THIS LONG OUTSTANDING CLAIM.
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